

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.26620 of 2005

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Dated:14.12.2005

Between:

Lavudu Pothuraju, S/o.Somulu,
Residing at Linu Kothuru Village, Yellamanchili Mandal, P.O

Regupalem, H.O. Yellamanchilli, Visakhapatnam Dist, and others.

..... PETITIONERS

AND

The Competent Authority & Special Deputy Collector - (Land
Acquisition), National Highway No.5,
Visakhapatnam, and another.

.....RESPONDENTS

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WRIT PETITION No.26620 of 2005

ORDER:

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The petitioners, who are 20 in number, claim to be the owners of land comprised in Survey Nos.70/2 and 70/3 of Yerravaram Village of Elamanchili Mandal of Visakhapatnam District. The said land, along with other lands, was acquired by the competent authority for National Highways under the provisions of the National Highways Act, 1956 (for short 'the Act'). The first respondent determined the compensation payable to the landowners by proceeding/award dated 04.01.2003. The petitioners alleged that the compensation was not paid to them in spite of their representations. Therefore, they invoke the jurisdiction of this Court under Article 226 of the Constitution of India seeking a writ of mandamus, *inter alia*, directing the respondents to pass an order regarding compensation under the Land Acquisition Act, 1894.

After hearing the learned Counsel for the petitioners, Sri C.Upendra, and the learned Assistant Government Pleader for Revenue (Land Acquisition), Sri G.Purushotham Reddy, this Court is not able to accept the writ petition. By reason of Section 3J of the Act, the provisions of the Land Acquisition Act have no application when the

land is acquired by the Central Government either for building or maintenance of National Highway or part thereof. Secondly, Sections 3A to 3H of the Act form a code for acquiring the land for National Highways. Section 3G of the Act requires the competent authority i.e., Revenue Divisional Officer, to issue a public notice to all persons interested in the land and determine the compensation payable to them, and if any person is aggrieved by such compensation, he is given right under Section 3G(5) of the Act to approach the Arbitrator appointed by the Central Government i.e., the District Collector. Under Section 3H of the Act, if there are several persons claiming the compensation, the competent authority may either determine the persons entitled for compensation or refer the dispute to the civil Court of original jurisdiction for resolving the dispute as to title. The petitioners have not availed the remedy. Thirdly, the award was passed on 04.01.2003 by the first respondent holding that the lands in Survey Nos.70/2 and 70/3 are Government lands. In spite of strenuous efforts by the learned Counsel for the petitioner, the title to the property cannot be decided in proceedings under Article 226 of the Constitution of India, and therefore, this Court is not inclined to go into the question. The petitioners' remedy lies in approaching the civil Court for declaration of a title and stake their claim for compensation, especially when first respondent came to the conclusion that the lands which are allegedly purchased by the petitioners are Government lands.

The Writ Petition, with the above observation, is therefore dismissed. No costs.

(V.V.S.RAO, J)

14.12.2005

vs